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Initiative Petition Information Sheet

Title of Petition An Act to Protect Motor Vehicle Owners and Small Businesses in Repairing Motor Vehicles (v. A1)

Petition Number 11-14
(to be filled in by Attorney General's Office staff)

Proponents' Contact

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Proponents' Attorney

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Optional:

Will the proponents propose a summary by the Monday, 5 days after the petition-filing deadline?
Yes, but proposed summary may be submitted after August 8, 2011

Will the proponents submit a memo of law by the Friday 9 days after the petition-filing deadline?
No, but proponents will submit legal memos as necessary upon request

Please note that the above information will be made available to the public and particularly to possible opponents of certification. The Proponent and Proponents' Attorney (if any) will receive copies of any materials submitted by the public regarding certification.

AGO Staff Person Receiving Petition

PS
(to be filled in by Attorney General's Office staff)

Date

8/3/2011
(to be filled in by Attorney General's Office staff)

AN INITIATIVE PETITION

AN ACT TO PROTECT MOTOR VEHICLE OWNERS AND SMALL BUSINESSES IN REPAIRING MOTOR VEHICLES

Be it enacted by the People, and by their authority, as follows:

SECTION 1. The General Laws of Massachusetts shall be amended by inserting after chapter 93I the following new chapter 93J:—

CHAPTER 93J

MASSACHUSETTS RIGHT TO REPAIR ACT

Section 1. As used in this chapter, the following words shall, unless the context clearly indicates a different meaning, have the following meanings:

"Authorized repair facility", a person or business operating in the commonwealth that is affiliated, by contract or otherwise, with an authorized dealer or motor vehicle manufacturer and is engaged in the diagnosis, service, maintenance or repair of motor vehicles or motor vehicle engines.

"Dealer", a person or business authorized by a manufacturer to lease or sell the manufacturer's new motor vehicles at retail; provided, however, that the dealer is also engaged in the diagnosis, service, maintenance or repair of motor vehicles or motor vehicle engines.

"Immobilizer system", an electronic device equipped on a vehicle for the sole purpose of preventing the theft of that vehicle by preventing a vehicle from being started unless the correct key code is present.

"Independent repair facility", a person or business operating in the commonwealth engaged in the diagnosis, service, maintenance or repair of motor vehicles or motor vehicle engines and that is not affiliated with a manufacturer or a dealer.

"Manufacturer", any person or business engaged in the business of manufacturing or assembling new motor vehicles.

"Owner", a person or business who owns, leases or otherwise has the legal right to use and possess a motor vehicle or the agent of that person.

"Trade secret", anything tangible or intangible or electronically kept or stored, which constitutes, represents, evidences or records a secret scientific, technical, merchandising, production or management information, design, process, procedure, formula, invention or improvement.

Section 2. A manufacturer of motor vehicles sold in the commonwealth shall make available for purchase by owners of motor vehicles manufactured by the manufacturer and by independent repair facilities the same diagnostic and repair information, including repair technical updates, that the manufacturer makes available to its dealers and authorized repair facilities through the manufacturer's world wide web diagnostic and repair information system or other electronically available manufacturer's repair information system.

All content of said repair information system shall be made available to owners and to independent repair facilities in the same form and manner and to the same extent as is made available to dealers and authorized repair facilities utilizing said repair information system.

Manufacturers shall exclude diagnostic, service and repair information necessary to reset a vehicle immobilizer system. Information necessary to reset a vehicle immobilizer system shall be obtained by dealers, authorized repair facilities, owners, and independent repair facilities through the secure data release model system as currently used by the National Automotive Service Task Force or other known, reliable and accepted law enforcement Internet-based systems.

Access to the manufacturer's diagnostic and repair information system shall be available for purchase by owners and independent repair facilities on an hourly, daily, monthly or yearly subscription basis and at cost and terms that are no greater than fair market value and nondiscriminatory as compared with the terms and costs charged to dealers or authorized repair facilities.

Each manufacturer shall make available for purchase by owners and independent repair facilities all diagnostic repair tools incorporating the same diagnostic, repair and wireless capabilities that the manufacturer makes available to its dealers and authorized motor vehicle repair facilities. These tools shall incorporate the same functional repair capabilities that the manufacturer makes available to dealers and authorized repair facilities. The cost and other terms of any sale of such tools to owners and to independent repair facilities shall be no greater than fair market value and nondiscriminatory as compared to the terms and costs charged to dealers or authorized repair facilities.

Section 3. Nothing in this chapter shall require a motor vehicle manufacturer to divulge a trade secret.

Section 4. Nothing in this chapter shall be interpreted or construed to abrogate, interfere with, contradict or alter the terms of any agreement made by a manufacturer, dealer, or authorized repair facility executed and in force as of the effective date of this chapter. On and after January 1, 2013, no person shall make or enter an agreement that purports to waive, avoid, restrict or limit a manufacturer's compliance with this chapter and any such agreement shall be void and unenforceable.

Section 5. Any violation of this chapter shall be deemed to be an unfair method of competition and an unfair or deceptive act or practice in the conduct of trade or commerce in violation of section 2 of chapter 93A. In the event of a dispute concerning the determination of fair market value under this chapter, the parties may agree to binding arbitration under the rules of the American Arbitration Association or, absent such agreement, either party may initiate an action in the superior court for relief under chapter 231A.

Pursuant to Article 48 of the articles of amendment of the Constitution of the Commonwealth of Massachusetts, as amended by Article 74 of said articles of amendment, the undersigned qualified voters of the Commonwealth of Massachusetts hereby submit the foregoing measure for approval by the people.

- 1 Glenn A Wilder – 21 Crickets Run – Hanover – MA – 02339
- 2 Arthur W. Kinsman – 56 Crescent Street – Plympton – MA – 02367
- 3 Alan S. Saks – 39 Canavan Drive – Braintree – MA -02184
- 4 John D. Caldwell Jr. – 3 Prescott Street – Boston – MA – 02129
- 5 Mary Ellen Doherty – 173 Woburn Street – Medford – MA – 02155
- 6 Steven A. Keady – 23 Hunter Lane – Canton – MA - 02021
- 7 Chrisann Gillen – 133 Commander Shea Blvd., Apt. 806 – Quincy – MA – 02171
- 8 John Daniel Caldwell – 3 Prescott Street – Boston – MA 02129
- 9 Paula A. Aiello – 67 Trowbridge Lane – Shrewsbury – MA – 01545
- 10 Jeffrey P. McLeod – 105 Pinehurst Road – Marshfield – MA - 02050
- 11 Sherry L. McLeod – 105 Pinehurst Road – Marshfield – MA - 02050
- 12 Noreen Caroline Camelo – 375 Swains Pond Ave. – Melrose –MA – 02176
- 13 Linda A Zablocki – 12 Leeds Street – Boston – MA – 02127
- 14 Dolores J. Pickup – 220 Gold Street, Unit 1 – Boston – MA – 02127
- 15 John J. O’Neill – 43 Bradfield Ave., Unit 1 – Boston – MA – 02131
- 16 Richard J. Evans – 623 East Fourth Street – South Boston – MA – 02127
- 17 Mary C. Nee-Loftus – 1764 Columbia Road, #2 – South Boston – MA – 02127
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